

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ANDREW PHILLIPS : ORDER OF REVOCATION
_____ : DOCKET NO: 508-01/99-194

At its meeting of June 17, 1999, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education regarding Andrew Phillips. In the Matter of the Tenure Hearing of Andrew Phillips, Docket No. 391-9/96. The case originated when the Roselle Board of Education brought tenure charges against Phillips alleging that he had falsified the grades of several special education students. In a decision dated March 20, 1997, the Commissioner of Education concurred with the Administrative Law Judge's conclusion that the case was appropriately disposed of by summary decision since Phillips did not specifically rebut any of the facts asserted by the local board. Moreover, although the Commissioner determined that Phillips had engaged in conduct unbecoming a teaching staff member, he remanded the case to the Office of Administrative Law for determination of the appropriate penalty. Prior to the remand hearing in the Office of Administrative Law, the case was settled. In the settlement, Phillips agreed to resign his position with the Board effective September 30, 1997 in exchange for the backpay and other benefits the Board owed him. Phillips currently holds a Teacher of the Handicapped certificate.

In a decision dated February 11, 1998, the Commissioner of Education approved the settlement and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6. Thereafter, on January 21, 1999, the State Board of Examiners issued an Order to Show Cause to Phillips as to why his certificate should not be suspended or revoked. The Order was predicated on the fact that Phillips had been found guilty of unbecoming conduct in the tenure proceeding as well as the level and nature of his conduct.

The Order to Show Cause was mailed to Phillips by regular and certified mail on February 24, 1999. The Order provided that if respondent desired to file an Answer to the Order

that Answer must be filed within 20 days. Phillips did not respond to the Order to Show Cause. The certified mail card was signed and returned and the regular mail was not returned. Thereafter, on May 7, 1999, the Board of Examiners advised Phillips, by regular and certified mail, that he was being provided an additional ten days to respond to the Order to Show Cause. Once again, Phillips did not respond. The certified mail receipt card was signed and returned. The regular mail copy was not returned.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Phillips' conduct and subsequent loss of tenure constitutes conduct unbecoming a certificate holder. Since Phillips did not respond to the Order to Show Cause, the Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order are deemed admitted for the purposes of this proceeding. N.J.A.C. 6:11-3(a)1. Since the charges in the Order to Show Cause incorporate the Commissioner's finding that Phillips' conduct was unbecoming and these charges are admitted, the Board of Examiners finds that it has just cause to act against Phillips' certificate. N.J.A.C. 6:11-3(a)1.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. Unbecoming conduct may be broadly defined to include "any conduct, which has a tendency to destroy public respect for [public] employees and competence in the operation of [public] services." Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998). In this case, Phillips has falsified the grades of several special education students under his tutelage. Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of

self-restraint and controlled behavior rarely requisite to other types of employment.” Tenure of Sammons, 1972 S.L.D. 302, 321.

While Redcay and Sammons both involved questions of tenure, their principles are equally applicable here. Phillips’ conduct demonstrates his belief that honesty and integrity are not important components of the teaching profession. This Board cannot disagree more strongly. Changing students’ grades to benefit the teacher’s reputation dishonors all of those teachers and students who work earnestly to maximize their potential. Moreover, it hinders sincere efforts to help those who might need additional instruction. The only appropriate response to such an affront is to prevent a teacher who would commit such an act from teaching again.

Accordingly, it is therefore ORDERED that Andrew Phillips’ Teacher of the Handicapped certificate be revoked on this 17th day of June 1999. It is further ORDERED that Andrew Phillips return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500 Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: August 6, 1999

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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